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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,460	07/08/2003	Jeff Abel	13.001.CON	1046
22147	7590	03/09/2007	EXAMINER	
DAVID R. MCKINNEY, P.C. 8 EAST BROADWAY, SUITE 500 SALT LAKE CITY, UT 84111			ART UNIT	PAPER NUMBER

DATE MAILED: 03/09/2007

Please find below and/or attached an Office communication concerning this application or proceeding.



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10.616.460

EXAMINER

ART UNIT	PAPER
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20070306

DATE MAILED:

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Commissioner for Patents

Defective Appeal Brief

1. The grounds of rejection to be reviewed on appeal, section VI of the appeal brief filed on 12-11-06 is defective in that item 4 regarding the secondary considerations presented by the appellant is not a ground of rejection. The grounds of rejection regard only the rejections set forth in the final rejection dated 6-22-06 and a secondary consideration such as an affidavit under 37 CFR 1.132 is not a ground of rejection.


2. Further, the appeal brief filed 12-11-06 is defective in that a supplemental affidavit under 37 CFR 1.132 filed 11-9-06 is filed along with the appeal brief and as seen in MPEP section 1207 a new affidavit such as the supplemental affidavit filed by appellant must be filed separately from the appeal brief.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley
Patent Examiner
Art Unit 3643